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In re Application of	:	
STOTZEL et al.	:	
Application No.: 10/549,969	:	
PCT No.: PCT/EP2004/002856	:	DECISION
Int. Filing Date: 18 March 2004	:	
Priority Date: 19 March 2003	:	
Attorney Docket No.: VOS0042/US	:	
For: RHEOLOGICAL ADDITIVE	:	

This decision is in response to applicants' "PETITION UNDER 37 CFR 1.182 TO CORRECT TRANSLATION OF NATIONAL STAGE PATENT APPLICATION" filed in the United States Patent and Trademark Office (USPTO) on 07 May 2007, which has properly been treated as a petition under 37 CFR 1.181.

**BACKGROUND**

On 18 March 2004, applicants filed international application PCT/EP2004/002856 which claimed a priority date of 19 March 2003 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 30 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 September 2005.

On 16 September 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee and a purported English translation of the international application.

On 07 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required.

On 08 September 2006, applicants filed a submission including a declaration of inventors and the surcharge under 37 CFR 1.492(h).

On 07 November 2006, the DO/EO/US mailed a NOTICE OF ACCEPTANCE OF

APPLICATION UNDER 35 U.S.C. 371 AN 37 CFR 1.495 (Form PCT/DO/EO/903) according to the application a 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date of 08 September 2006 and a 35 U.S.C. 371 date of 08 September 2006.

On 07 May 2007, applicants filed the instant "PETITION UNDER 37 CFR 1.182 TO CORRECT TRANSLATION OF NATIONAL STAGE PATENT APPLICATION" requesting that the accompanying English translation be substituted for the purportedly defective English translation filed 16 September 2005. This submission has properly been treated as a petition under 37 CFR 1.181.

#### **DISCUSSION**

In view of the petition and specification filed with the 07 May 2007 submission, it is apparent that the translation filed 16 September 2005 was not sufficient. Thus, the requirements of 35 U.S.C. 371(c) for entry into the national stage in the United States of America were not completed as of the 35 U.S.C. 102(e) and 371 dates indicated in the NOTIFICATION OF ACCEPTANCE mailed 07 November 2006. Accordingly, the 07 November 2006 NOTIFICATION OF ACCEPTANCE is hereby VACATED.

The fee for filing an English translation of an international application later than thirty months from the priority date of \$130.00 under 37 CFR 1.492(f) has been charged to Deposit Account 50-1775.

#### **CONCLUSION**

For the reasons set forth above, the petition under 37 CFR 1.181 is GRANTED.

The NOTICE OF ACCEPTANCE mailed 07 November 2006 is VACATED.

The English translation of the international application filed 07 May 2007 will be used rather than the translation filed 16 September 2005.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including according to the application a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 07 May 2007.



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Application No.: 10/549,969

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